



Comptroller General
of the United States
Washington, D.C. 20548

Asken

Decision

Matter of: Dynamic Sciences, Inc.; Kay & Associates, Inc.

File: B-270448; B-270448.2

Date: December 8, 1995

DECISION

Dynamic Sciences, Inc. (DSI) and Kay & Associates, Inc. protest the award of a contract to Jil Information Systems under request for proposals No. N68936-95-R-0190, issued by the Department of the Navy, Naval Air Systems Command, for aircraft maintenance services at the Naval Air War Center Weapons Division, China Lake, California. We view these protests as academic because the agency has terminated the contract awarded to Jil and "intends to review this procurement prior to making any final determination with respect [to] the competition and a new award." To the extent that the protesters challenge future agency action, we consider the protests premature.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Brown Assocs. Management Servs., Inc.-Request for Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299. We will not consider protests where the issue presented has no practical consequences with regard to an existing federal government procurement, and thus is of purely academic interest. Here, the contract protested by DSI and Kay has been terminated and their arguments with respect to that award are therefore academic.

DSI argues that notwithstanding the agency's termination of Jil's contract, its protest is not academic. DSI notes that, during a debriefing, the agency indicated that while it considered DSI to be a technically acceptable and responsible offeror, it had rejected as ineffective a price discount offered by DSI. The protester argues that since it protested the agency's position with respect to the discount, which it considers to be inconsistent with the solicitation's evaluation scheme, the protest was not rendered academic by the termination of the award to Jil.

DSI's protest with respect to the discount, however, merely anticipates improper action that has not yet taken place. As noted above, the agency is in the process of reviewing the procurement prior to making any final determination with respect to the competition and a new award, and nothing in the record indicates that the

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agency has taken a final position with respect to the acceptability of the discount offered by DSI. Furthermore, in the absence of an award to another offeror, and since DSI has not been eliminated from the competition, DSI has not yet suffered any prejudice subject to redress through the bid protest process. Protests that merely anticipate improper agency action are speculative and premature. See General Elec. Canada, Inc., B-230584, June 1, 1988, 88-1 CPD ¶ 512. Consequently, there is no basis for us to consider DSI's argument with respect to its discount at this time.

If, in the future, the agency takes concrete action that may properly form the basis for a valid bid protest, the protesters may file with our Office at that time.

The protests are dismissed.

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